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No. 94-23

In The

Supreme Court of the United States

October Term, 1994

CITY OF EDMONDS,

Petitioner,

v.

WASHINGTON STATE BUILDING CODE COUNCIL, ET AL.,

Respondents.

AND

UNITED STATES OF AMERICA

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF OF TOWNSHIP OF UPPER ST. CLAIR AS AMICUS CURIAE IN SUPPORT OF PETITION

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MISCELLANEOUS

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INTEREST OF AMICUS CURIAE

Amicus curiae respectfully submits the within brief in support of the petition for a writ of certiorari. The Township of Upper St. Clair ("Township") is a political subdivision of the Commonwealth of Pennsylvania. Counsel to Amicus curiae is the authorized law officer of the Township. Therefore, consent to the filing of this brief is not necessary. Supreme Court Rule 37.5.

The Township is concerned because the Township, like thousands of political subdivisions across the country, utilizes single family zoning as the basic building block for its zoning scheme. In drafting its definition of family, the Township believed that its definition was within the exemption to the Fair Housing Act Amendments set forth at 42 U.S.C. § 3607(b)(1) for reasonable occupancy limitations. The decision by the Court of Appeals for the Eleventh Circuit in *Elliott v. City of Athens, Ga.*, 950 F.2d 975 (11th Cir. 1992), *cert. denied*, 113 S.Ct. 376, 121 L.Ed.2d 287, 61 U.S.L.W. 3155 (U.S., Oct. 19, 1992) confirmed this understanding. The decision by the Court of Appeals for the Ninth Circuit has left the Township with no idea whether its zoning ordinance violates the Fair Housing Act Amendments, 42 U.S.C. §§ 3601-3631.

The concern of Amicus curiae is a very realistic and immediate one. On August 31, 1993, Southwinds, Inc. ("Southwinds"), Residential Resources, Inc. ("Residential Resources") and three mentally retarded persons filed a Complaint against Township in the United States District Court, Western District of Pennsylvania, at Civil Action No. 93-1443. *Cox et al. v. Township of Upper St. Clair*, C.A. No. 93-1443 (E.D.Pa. May 18, 1994). Southwinds is a not-for-profit corporation which operates community residential programs for persons with mental retardation and is the residential service provider for the three mentally retarded persons. Residential Resources is a not-for-profit corporation which purchases properties to be used by persons with disabilities.

In their Complaint, plaintiffs alleged that the Township's Zoning Ordinance violates the Fair Housing Act

and Fair Housing Act Amendments, 42 U.S.C. § 3601-3631.

On November 15, 1993, the Township filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The United States of America filed a brief as Amicus curiae in support of the plaintiffs.

By Memorandum Opinion and Order dated May 18, 1994, Judge Maurice B. Cohill, Jr. of the United States District Court, Western District of Pennsylvania, denied the Township's Motion to Dismiss with respect to the claims under the Fair Housing Act Amendments. (*See* Memorandum Opinion and Order dated May 18, 1994, attached as Appendix A.)

The case concerns the enforcement and propriety of a zoning ordinance enacted by the Township. (The Factual Statements in this Brief are from the Memorandum Opinion and Order.) For zoning purposes, the Township is divided into five residential zones, delineated R-1, R-2, R-3, R-4, and R-5. The three mentally retarded persons reside in an R-2 Zoning district. Township Code Section 130.9 defines those uses permitted in the R-2 Single-Family Residential District and limits permitted principal uses by right to Single-Family Dwellings. The Township Code defines single family dwelling in Section 130.3.80 as "A RESIDENTIAL DWELLING containing one (1) DWELLING UNIT occupied by one FAMILY and which is the only PRINCIPAL BUILDING on the LOT." On July 30, 1993, the Township issued a notice of violation to Residential Resources and Southwinds. The notice of violation charged Residential Resources and Southwinds with

violating Township Code Section 130.3.84. The Township Zoning Code in Section 130.3.84 defines "FAMILY" as,

> one (1) or more persons related by blood, marriage or adoption; or a group of not more than two (2) persons who need not be related by blood, marriage or adoption, who are living together in a DWELLING UNIT and maintaining a common household and practicing on a permanent basis a joint economic, social and cultural life. If two (2) persons are living together unrelated by blood, marriage or adoption, the basis for the relationship cannot be therapeutic or corrective or the profit motive. In addition, temporary gratuitous guests or persons, such as domestic servants, employed by the FAMILY and who report to the FAMILY for supervision and decision making may reside with the FAMILY. FAMILY shall not be construed to include a PERSONAL CARE HOME, a GROUP HOME, or a GROUP LIVING ARRANGEMENT. Nothing in this definition shall be construed to prohibit providing a home for children under the age of eighteen (18) years who are foster children or are living with the FAMILY with the permission of their parent or legal guardian.

Plaintiffs alleged that the Township Zoning Code violates the Fair Housing Act Amendments in that the Code discriminates against the three mentally retarded persons by, inter alia, prohibiting them from living in residential zones R-1 and R-2 and failing to provide them with reasonable accommodations, even though the Zoning Code does not distinguish between disabled and non-disabled unrelated persons. In its Motion to Dismiss, the Township argued that the Township's definition of family

is within the exemption set forth at 42 U.S.C. § 3607(b)(1) for the reasonable occupancy limitations of local government entities. Pursuant to this section of the Fair Housing Act Amendments, the Township urged that its Code is merely a "reasonable . . . restriction[] regarding the maximum number of occupants permitted to occupy a dwelling." In support, the Township extensively relied on *Elliott v. City of Athens, Ga.*, 950 F.2d 975 (11th Cir. 1992), *cert. denied*, 113 S.Ct. 376, 121 L.Ed.2d 287, 61 U.S.L.W. 3155 (U.S., Oct. 19, 1992), wherein the United States Court of Appeals for the Eleventh Circuit considered a reasonable restriction exemption similar to the one proposed by the Township.

In his Memorandum Opinion, United States District Judge Maurice B. Cohill, Jr., in holding that the plaintiffs have stated a claim under the Fair Housing Act Amendments upon which relief can be granted and denying the Township's Motion to Dismiss the Fair Housing Act claim, stated:

> *Elliott* has been consistently criticized, see e.g., *Oxford House-C v. City of St. Louis*, 843 F.Supp. 1556, 1574 (E.D. Mo. 1994) (collecting cases), and we will not repeat those criticisms here, except to state that we too disagree with *Elliott*.

The conflicting decisions in *Elliott v. City of Athens, Ga.*, 960 F.2d 975 (11th Cir. 1992), *cert. denied*, U.S. 113 S.Ct. 376, 121 L.Ed.2d 287 (1992) and *City of Edmonds v. Washington State Building Code Council, et al.*, 18 F.3d 802 (9th Cir. 1994) have given the Township a Hobson's choice. The Township now must either abandon its definition of family, despite its belief that *Elliott* was correctly

decided, or risk the very real possibility that it will be found in violation of the Fair Housing Act Amendments.

REASONS FOR GRANTING THE PETITION

Amicus curiae joins with petitioner in urging this Court to review the Ninth Circuit's decision because it is in direct conflict with a decision from the Eleventh Circuit, because the decision represents a major departure from related precedent from this Court, and because the question presented has significant national importance.

I. The Question Presented Affects Thousands Of Municipalities Across The Country That Utilize Single Family Zoning As The Basic Building Block For Their Zoning Schemes.

This is a very important issue. One-family or single-family detached residence districts are a well-recognized fact of use zoning regulations. As David M. Burch and Scott M. Ryals wrote:

> The single-family zoning district has become the hallmark of modern American land use control. Justice Sutherland's opinion in *Village of Euclid v. Ambler Realty Co.* [262 U.S. 365 (1926)], literally bristles with disdain for apartments and those who live in them. He likens apartment houses to "mere parasites" that feed upon the light, fresh air, and open spaces of the single-family district. From this exalted position, the single-family zone and its protection have tended to dominate local land use decision-making.

D. Burch and S. Ryals, *Land Use Controls: Requiem for Zoning and Other Musings on the Year 1982*, 15 Urban Law. 879, 880 (1983).

The right to establish such highly restricted districts has been well settled for years. *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974).

The definition of "family" is essential to zoning district regulation. Many local legislatures have redefined the term "family" to exclude groups of unrelated persons from occupying dwellings in districts restricted to single-family use. R. Anderson, American Law of Zoning, § 9.30 (1986).

The decision is of critical importance to our nation's local governments because it will drastically interfere with their legislative function. The Ninth Circuit's decision, if not reviewed by this Court, will have a highly detrimental impact on single family zoning. Indeed, the decision may be the demise of single family zoning.

II. The Decision Represents A Major Departure From Related Precedent From This Court And From Other Circuits Supporting The Right To Establish Such Highly Restricted Districts.

This Court has consistently acknowledged a community's lawful ability to regulate the number of unrelated adults who may occupy a residence in a single family zone, so long as groups of unrelated, disabled persons are not treated differently under the law from other groups of unrelated persons. *See Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974); *Moore v. City of East Cleveland, Ohio*, 431 U.S.

494 (1977); *City of Cleburne, Texas v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985).

This Court resolved the constitutional issues in *Belle Terre v. Boraas*, 416 U.S. 1 (1974). The *Belle Terre* case resulted when six college students rented a house in a single-family neighborhood. The ordinance limited occupancy of one-family dwellings to traditional families or to groups of not more than two unrelated persons. Mr. Justice Douglas, speaking for a majority of the Court, found no evidence in the record of any infringement of constitutional rights, stating:

> It is said however, that if two unmarried people can constitute a "family" there is no reason why three or four may not. But every line drawn by a legislature leaves some out that may well have been included. That exercise of discretion, however, is a legislative not a judicial function . . .
>
> A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs. This goal is a permissible one within *Berman v. Parker, supra.* [348 U.S. 26 (1954)]. The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.

Village of Belle Terre v. Boraas, 416 U.S. 1, 9 (1974).

The Township respectfully submits that the Ninth Circuit's decision in *City of Edmonds* does not accurately set forth the state of the law and is in conflict with the Third Circuit's Opinion in *Doe v. City of Butler*, 892 F.2d

315 (3d Cir. 1989). In *Doe*, the Third Circuit upheld a zoning ordinance limiting the residency of unrelated adults when applied to a shelter for battered women. Under similar analysis, the Eighth Circuit affirmed the ability of local communities to apply zoning controls in the form of distancing requirements for group homes. *Familystyle of St. Paul, Inc. v. City of St. Paul, Minn.*, 728 F.Supp. 1396 (D.Minn. 1990), *affd.* 923 F.2d 91 (8th Cir. 1991).

III. The Court of Appeals' Interpretation Of 42 U.S.C. Section 3607(b)(1) Directly Conflicts With The Eleventh Circuit's Interpretation.

The decisions of the Ninth and Eleventh Circuits are directly contrary to each other.

In *Elliott v. City of Athens, GA*, 960 F.2d 975 (11th Cir. 1992), *cert. denied*, ___ U.S. ___, 113 S.Ct. 376, 121 L.Ed.2d 287 (1992), the Eleventh Circuit held that a zoning ordinance permitting a maximum of four unrelated individuals to occupy a single family residence imposed a "maximum occupancy limitation" within the meaning of 42 U.S.C. § 3607(b)(1), although the ordinance placed no limit on the number of family members who could reside together. *Elliott v. City of Athens, GA*, 960 F.2d 975, 979-981 (11th Cir. 1992), *cert. denied*, ___ U.S. ___, 113 S.Ct. 376, 121 L.Ed.2d 287 (1992).

The Ninth Circuit reached the contrary conclusion, stating: "Section 3607(b)(1) only exempts occupancy restrictions that apply to all occupants, whether related or not." *City of Edmonds v. Washington State Building Code Council, et al.*, 18 F.3d 802, 807 (9th Cir. 1994).

The Ninth Circuit noted the conflict, stating, "we disagree with *Elliot*, and so must reverse and remand." *City of Edmonds v. Washington State Building Code Council, et al.*, 18 F.3d 802, 803 (9th Cir. 1994).

The issue is narrow, and there is a direct conflict on an issue of sufficient national importance to warrant review.

CONCLUSION

For all of the foregoing reasons and for the additional reasons set forth in the petition, the writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JONATHAN COX, ANTHONY LEGINE, CHARLES LATIMER, by and through their next friend, ROBERT MOCHAN; SOUTHWINDS, INC.; and RESIDENTIAL RESOURCES, INC.,	)	Civil Action No. 93-1443
Plaintiffs,	)	
v.	)	
TOWNSHIP OF UPPER ST. CLAIR,	)	
Defendant.	)	

MEMORANDUM OPINION

COHILL, D.J.

Before the Court is a Motion to Dismiss (Doc. 10) filed by defendant Township of Upper St. Clair, Pennsylvania (Township) in response to a complaint (Doc. 1) filed by the plaintiffs Jonathan Cox, Anthony Legine, Charles Latimer, Southwinds, Incorporated (Southwinds), and Residential Resources, Incorporated (Residential Resources). The Township is a political subdivision of the Commonwealth of Pennsylvania. Compl. ¶ 10. Messrs. Cox, Legine, and Latimer are mentally retarded. *Id.* ¶¶ 4-6. Southwinds is a not-for-profit corporation that operates community residential programs for persons with mental retardation and is the residential service provider for Messrs. Cox, Legine, and Latimer. *Id.* ¶ 8. Residential Resources is a not-for-profit corporation that

purchases properties to be used by persons with disabilities. *Id.* ¶ 9.

In their complaint, plaintiffs allege that the defendant's zoning ordinance violates (1) Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*, Compl. ¶ 56, (the Fair Housing Act or FHA claim); (2) the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, Compl. ¶¶ 57, 58 (the Equal Protection and Due Process claims); (3) section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, Compl. ¶ 59) the Rehabilitation Act claim); and (4) Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131, Compl. ¶ 60 (the ADA claim).

For the reasons below, we will deny the defendant's motion to dismiss with respect to the claims under the FHA and the Equal Protection and Due Process Clauses and 42 U.S.C. § 1983. We will grant defendant's motion with respect to the claims under the Rehabilitation Act and the ADA.

I. Background

This case concerns the enforcement and propriety of a zoning ordinance enacted by defendant Township. For zoning purposes, the Township is divided into five residential zones, delineated R-1, R-2, R-3, R-4, and R-5. Messrs. Cox, Legine, and Latimer reside at 224 Keifer Drive in Upper St. Clair, which is in R-2. On July 30, 1993, the Township issued a notice of zoning violation against plaintiffs Residential Resources and Southwinds. The Township charged the plaintiffs with violating the Township Code, ch. 130, § 130.3.84. Because the language of the

code is important to the litigation, we set it out in some detail. In § 130.3.84, "family" is defined as

> One (1) or more persons related by blood, marriage or adoption; or a group of not more than two (2) persons who need not be related by blood, marriage or adoption, who are living together in a DWELLING UNIT and maintaining a common household and practicing on a permanent basis a joint economic, social and cultural life. If two (2) persons are living together unrelated by blood, marriage or adoption, the basis for the relationship cannot be therapeutic or corrective or the profit motive. In addition, temporary gratuitous guests or persons, such as domestic servants, employed by the FAMILY and who report to the FAMILY for supervision and decision making may reside with the FAMILY. FAMILY shall not be construed to include a PERSONAL CARE HOME, a GROUP HOME, or a GROUP LIVING ARRANGEMENT. Nothing in this definition shall be construed to prohibit providing a home for children under the age of eighteen (18) years who are foster children or are living with the FAMILY with the permission of their parent or legal guardian.

Compl. ¶ 33. And the term "group living arrangements" is defined in the Township code as

> Two or more but not more than seven (7) persons . . . who need not be related by blood, marriage or adoption who maintain a common household and practice on a permanent basis a joint economic, social and cultural life, provided that the basis of the relationship is not the profit motive or corrective. A GROUP LIVING

> ARRANGEMENT shall not be construed to include any INSTITUTIONAL USE. A GROUP LIVING ARRANGEMENT may include a community living arrangement for mentally retarded or physically handicapped persons.

Id. ¶ 36. Plaintiffs assert that the code as written, and as applied, discriminates against the mentally retarded and is therefore invalid under numerous theories, as discussed below.

II. The Fair Housing Act

The Fair Housing Act (FHA), as the name implies, prohibits discrimination in the sale or rental of housing. Specifically, the FHA provides that

> it shall be unlawful . . . [t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap. . . .

42 U.S.C. § 3604(f)(1). Plaintiffs allege that the Township code violates the FHA in that the code discriminates against Messrs. Cox, Legine, and Latimer by, *inter alia*, prohibiting them from living in residential zones R-1 and R-2 and failing to provide them with reasonable accommodations. In its motion to dismiss, the Township argues that its code is "exempt" from the FHA, which provides:

> Nothing in this subchapter limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

42 U.S.C. § 3607(b)(1). Pursuant to this section of the FHA, the Township urges that its code is merely a "reasonable . . . restriction[] regarding the maximum number of occupants permitted to occupy a dwelling."

In support, the Township extensively relies on *Elliott v. City of Athens*, 960 F.2d 975 (11th Cir.), *cert. denied*, ___ U.S. ___, 113 S.Ct. 376 (1992), wherein the United States Court of Appeals for the Eleventh Circuit considered a reasonable restriction exemption similar to the one proposed by the Township. *Elliott* has been consistently criticized, *see, e.g., Oxford House-C v. City of St. Louis*, 843 F. Supp. 1556, 1574 (E.D. Mo. 1994) (collecting cases), and we will not repeat those criticisms here, except to state that we too disagree with *Elliott*.

In sum, the plaintiffs have stated a claim under the FHA upon which relief can be granted. We will therefore deny the defendant's motion to dismiss the FHA claim.

III. The Equal Protection and Due Process Clauses

The plaintiffs have likewise stated claims under the Equal Protection and Due Process Clauses, and 42 U.S.C. § 1983, sufficient to survive defendant's motion to dismiss, which is denied with respect to those claims. *See, e.g., Midnight Sessions, Ltd. v. City of Philadelphia*, 945 F.2d 667, 683 (3d Cir. 1991) (noting that a substantive due process challenge to zoning decisions requires factual determinations on issues such as bias, improper motive, and unlawful animus), *cert. denied*, ___ U.S. ___, 112 S.Ct. 1668 (1992).

IV. The Rehabilitation Act

The Rehabilitation Act provides that no handicapped individual, such as those with mental retardation, "shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any *program or activity* receiving Federal financial assistance." 29 U.S.C. § 794(a) (emphasis added).

The Township contends that its zoning operations do not constitute a "program or activity" and that the Rehabilitation Act therefore does not apply. The plaintiffs, citing another section of the statute, respond that "program or activity" means "all of the operations" of "a department, agency, special purpose district, or other instrumentality of a State or local government." 29 U.S.C. § 794(b)(1)(A). According to the plaintiffs, a town zoning code is included in "all of the operations" of a local government.

If viewed in isolation, the plaintiffs' definition of "program or activity" might seem plausible. But we look to the context where the words appear. Words in a statute are given their common meaning, and a statute is interpreted, in the first instance, by its words and their context. We find that the plain meaning of § 794(a) does not support the interpretation urged by the plaintiffs. As is made clear by the context in which "program or activity" appears, these words refer to discrete, unique initiatives undertaken by an entity receiving federal funds. Enactment and enforcement of a zoning code are neither programs nor activities as contemplated by the

Rehabilitation Act; rather, they are fundamental undertakings of government. We are unwilling to stretch the definition of "program or activity" beyond that permitted by common sense or common understanding.

We will therefore grant defendant's motion to dismiss with respect to the plaintiffs' Rehabilitation Act claim.

V. The Americans with Disabilities Act

The disputed language in the Americans with Disabilities Act (ADA) is similar to that disputed in the Rehabilitation Act, with one exception: the ADA provides that no disabled individual shall "be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, *or be subjected to discrimination by any such entity.*" 42 U.S.C. § 12132 (emphasis added). The Township argues that the ADA does not apply to its zoning operations because such operations are not "services, programs, or activities." The plaintiffs respond that even if zoning is not a service, program, or activity, they are being "subjected to discrimination" by the Township's zoning.

We again look to the context in which the "subjected to" language appears. The words immediately preceding "subjected to" refer to affirmative acts by a public entity in providing services, programs, or activities. We can only conclude that the ADA prohibits discrimination by public entities in how those entities administer their services, programs, or activities. As discussed above in Part IV, we find that zoning is not a service, program, or activity as contemplated by the ADA. *Accord Moyer v.*

Lower Oxford Township, No. 92-3348, 1993 U.S. Dist. LEXIS 144, at *4-*5 (E.D. Pa. Jan. 6, 1993); *Burnham v. City of Rohnert Park*, No. C 92-1439SC, 1992 U.S. Dist. LEXIS 8540, at *10 n.9 (N.D. Cal. May 18, 1992).

With some trepidation, we reviewed the legislative history of the ADA, which supports our conclusion that Congress did not intend the ADA to cover the type of discrimination alleged by the plaintiffs. The House Report accompanying the ADA mentions that

> *Last year, Congress amended the Fair Housing Act to prohibit discrimination against people with disabilities in the sale and rental of private housing.* However, there are still no protections against discrimination by employers in the private sector, by places of public accommodation, by State and local government agencies that do not receive Federal aid, and with respect to the provisions of telecommunication services.

H.R. Rep. No. 485, 101st Cong., 2d Sess., pt. 2, at 47 (1990), *reprinted in* 1990 U.S.C.C.A.N. 267, 329 (emphasis added). We infer from the highlighted portion of this report that Congress did not intend the ADA to cover discrimination in the sale or rental of private housing, but rather intended the FHA to address such discrimination.

The Senate Report, moreover, lists the two purposes of the ADA: (1) to make the provisions of the Rehabilitation Act applicable to all public entities, regardless of whether they receive federal funding, and (2) to clarify the Rehabilitation Act with respect to public transportation. S. Rep. 116, 101st Cong., 2d Sess., at 12 (1989). Thus the ADA expanded the class of public entities that are covered under the act to those that do not receive federal

funds; and ADA did not expand the type of conduct covered.

Because the ADA does not apply to the type of discrimination alleged by plaintiffs, we will grant defendant's motion to dismiss with respect to the ADA claim.

An appropriate order follows.

/s/ Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JONATHAN COX, ANTHONY LEGINE, CHARLES LATIMER, by and through their next friend, ROBERT MOCHAN; SOUTHWINDS, INC.; and RESIDENTIAL RESOURCES, INC.,	)	Civil Action No. 93-1443
Plaintiffs,	)	
v.	)	
TOWNSHIP OF UPPER ST. CLAIR,	)	
Defendant.	)	

ORDER

AND NOW, to-wit, this 18th day of May 1994, for the foregoing reasons, it is hereby ORDERED, ADJUDGED, and DECREED that defendant Township of Upper St. Clair's Motion to Dismiss (Doc. 10) be and hereby is

1. GRANTED with respect to plaintiffs' claims under the Rehabilitation Act and the Americans with Disabilities Act; and

2. DENIED with respect to plaintiffs' claims under the Fair Housing Act, the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution, and 42 U.S.C. § 1983.

/s/ Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
U.S. District Judge

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